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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,007	07/29/2003	Edward B. Dakin	37841.1.5	7345
22859 7590 11/15/2007 INTELLECTUAL PROPERTY GROUP FREDRIKSON & BYRON, P.A. 200 SOUTH SIXTH STREET SUITE 4000 MINNEAPOLIS, MN 55402			EXAMINER WOO, JULIAN W	
			ART UNIT 3773	PAPER NUMBER
			MAIL DATE 11/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/629,007

Applicant(s)

DAKIN ET AL.

Examiner

Julian W. Woo

Art Unit

3773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2007 and 09 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8, 11-22, 24, 26, 28-30, 32-39 and 41-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6, 8, 11-22, 24, 26, 28-30, 32-38 and 55-60 is/are allowed.
- 6) ☒ Claim(s) 39, 41-43, 46, 47 and 49-51 is/are rejected.
- 7) ☒ Claim(s) 44, 45, 48 and 52-54 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 July 2003 and 10 July 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The above-identified application has been withdrawn from issue as of October 9, 2007, and a non-final rejection is presented below.

Drawings

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the line quality of the all the figures should be improved and clarified (i.e., formalized). Moreover, the letters, numbers, and figures of all the drawings should be enlarged (letters and numbers should be at least 0.125 inch in height). Also, figures 15A-17B are apparently informal. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Objections

3. Claims 50 and 51 are objected to because of informalities, which can be corrected as follows: In claim 50, line 4, "extended" should be replaced by --external--. In claim 51, line 2, "potion" should be replaced by --portion--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3773

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 39, 41-43, 46, 47, and 49-51 are rejected under 35 U.S.C. 102(e) as being anticipated by Cole et al. (6,068,648). Cole et al. disclose, at least in figures 12A-12D and in col. 14, line 65 to col. 15, line 47; a bone fracture reduction system and a method with the system for positioning fragments of a bone fracture with respect to each other to reduce the fracture, where the method includes a length of flexible, inelastic cord (20), an internal fastener (30), an external fastener (94) for locking onto the cord, and an axially rigid tubular support (40), where the tubular support includes a series of segments (i.e., portions), where the tubular support is extendable between first and second bone fragments (90, 91), where the tubular support is positioned flush against one of the bone fragments (proximal of fastener 30), the tubular support being sized such that such positioning causes tension on the cord (via inherent friction between the cord and the tubular support during withdrawal of the tubular support), where positioning the tubular support is performed while the bone fragments are distracted from one another, where the method further includes securing the cord to bone fragments to restrain separation of bone fragments and draw fracture surfaces toward each other, where the fastener (30) includes a toggle portion, and where the cord is grasped and tensioned with first and second portions (54, 51) of a tensioning instrument (56).

Allowable Subject Matter

6. Claims 44, 45, 48, and 52-54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record, alone or in combination, discloses a method for positioning bone fragments of a bone fracture including, inter alia, a length of flexible, inelastic cord, internal and external fasteners, and an axially rigid tubular support, where the tubular support includes pharmaceuticals or antibiotics, where the internal fastener includes a threaded end, where the method includes screwing the threaded end from the interior of the bone into a cortical portion of a first bone segment threaded member, and where the method includes attaching a plurality of internal fasteners and a plurality of axially rigid tubular supports to the bone fragments.

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

8. Claims 1-6, 8, 11-22, 24, 26, 28-30, 32-38, and 55-60 (including claims as amended in the Examiner's amendment of May 9, 2007) are allowed.

9. The following is an examiner's statement of reasons for allowance. With respect to claims 1-6, 8, 11-22, 24, 26, 28-30, and 32-38: None of the prior art of record, alone or in combination, discloses an orthopedic or bone fracture reduction system and a method with the system including, inter alia, a length of flexible, inelastic cord, first and

second fasteners, and an axially rigid tubular support; where the tubular support includes pharmaceuticals, and where one of the fasteners includes a threaded bore and a lock that is a threaded member.

With respect to claims 55-60: None of the prior art of record, alone or in combination, a method for reducing a bone fracture, where the method includes, inter alia, attaching a flexible cord from within the bone interior to a first bone fragment, attaching an internal pulley bearing the cord to a second bone fragment, passing an end of the cord through an opening in a third bone fragment, and advancing first and second axially rigid tubular supports over the cord or advancing an axially rigid tubular support over the cord and tensioning the passed through the third bone fragment. Also, none of the prior art of record discloses a bone fracture reduction system including, inter alia, an internal fastener, a pair of flexible inelastic cords attached to the internal fastener, a pair of axially rigid tubular supports, and a pair of external fasteners.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian W. Woo whose telephone number is (571) 272-4707. The examiner can normally be reached Mon.-Fri., 7:00 AM to 3:00 PM Eastern Time, alternate Fridays off.

Art Unit: 3773

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julian W. Woo
Primary Examiner

November 7, 2007